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March 22, 2024

BY ECF

The Hon. Ronnie Abrams  
United States District Judge  
Southern District of New York  
40 Foley Square, Courtroom 1506  
New York, NY 10007

Re: Association of Contracting Plumbers of the City of New York, Inc., et al., v. City of New York (1:23-cv-11292 (RA))

To the Hon. Ronnie Abrams:

I am an Assistant Corporation Counsel representing the City of New York ("City") in the above-referenced case. I write to object to Plaintiffs' proposal that, should the Court grant New York Geothermal Energy Organization's and WE ACT for Environmental Justice's ("Proposed Intervenor") motion to intervene ("Motion"), the City and Proposed Intervenor jointly file any remaining briefs, motions, or other filings. ECF No. 38 at 15. Plaintiffs' proposal would significantly and unreasonably prejudice the City's defense.

Plaintiffs challenge the City's Local Law 154 of 2021, a law limiting the combustion of certain high-emission fuels in new construction, only on the basis that it is preempted by the Energy Policy and Conservation Act of 1975 ("EPCA"), a law establishing a federal regime regulating the energy consumption of certain consumer and industrial appliances. *See* ECF No. 1. Plaintiffs and Proposed Intervenor agree that the City can adequately defend the challenged law. *See* ECF No. 24 at 19; ECF No. 38 at 8, 15, 16. However, the City's ongoing defense of its law will be unjustifiably prejudiced if it is required to share limited briefing space with other potential litigants. This is particularly true here, where briefing examines alleged preemption under a complex, technical federal statute. Plaintiffs' suggestion that the Court require joint briefing, including for a reply to Plaintiffs' forthcoming opposition to the City's pending motion to dismiss, will only serve to lessen the burden on Plaintiffs of pursuing litigating they initiated

at the expense of the City's ability to defend its law. The City therefore objects to Plaintiffs' proposal for joint briefing and respectfully asks the Court to reject that proposal should the Court grant the Proposed Intervenors' Motion.

Thank you for your consideration of this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Harned', with a stylized flourish at the end.

Christian C. Harned